

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8864 of 2020

- Sarvesh Kumar Kannaujiya, S/o Lalchand Kannaujiya, aged about 28 Years, Resident of Village Rajapur, Tilsava District Mau Uttar Pradesh, Present Address 18 Vee Bataliyan (Vibhar) C.S.B. Narayanpur, Sukma, District Sukma Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Chauki Rampur, Police Station Kotwali District Korba Chhattisgarh.

----Non-applicant

For Applicant	Shri Vikash Pandey, Advocate.
For State	Shri Dinesh Tiwari, Deputy G.A.
For Objector/Victim	Shri Pramod Shrivastava, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

22/01/2021

1. The applicant has preferred this application under Section 439 of Cr.P.C. as he is in jail since 31.10.2020 in connection with Crime No.841/2020 registered at Police Station Kotwali, District Korba, C.G. for the offence punishable under Section 376 of Indian Penal Code.
2. Allegation against the present applicant is that he established sexual intercourse with the prosecutrix on the pretext of marrying her repeatedly and later on refused to marry her saying that he is already married. On report being lodged to the above effect, the aforesaid offence has been registered against the applicant.
3. Learned counsel for the applicant submits that applicant is an

innocent person and has been falsely implicated in this case. He submits that there was no suppression of the fact regarding marital status of the applicant and the prosecutrix knowing well that applicant is a married person had physical relations with the applicant of her own free will. He also submits that prosecutrix was a major girl, she was having affair with the accused for a long time i.e. from 1st March, 2018 to 4th June, 2020. There is delay in lodging the FIR of about 2 years. He is in jail since 31.10.2020, charge sheet has already been filed and conclusion of the trial is likely to take some time. Therefore, he may be released on bail.

4. On the other hand, learned counsel for the State opposes the bail application.
5. The prosecutrix along with her counsel Shri Pramod Shrivastava, Advocate, is present in person and submitted that she has no objection to release of the applicant on bail.
6. Considering the facts and circumstances of the case, the conduct of the prosecutrix, the detention period of the applicant, the delay of about 2 years in lodging the FIR, the fact that the applicant and the prosecutrix, a married lady, were having affair for a long time, they visited several places together, the applicant has no criminal antecedent as admitted both the counsel and conclusion of trial may take some time, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for grant of bail to the applicant. Accordingly, the application is allowed. It is directed that in the event of applicant executing a

personal bond for a sum of Rs.50,000/- with two sureties of Rs.25,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-

- (i) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
- (iv) he shall not involve himself in any offence of similar nature in future.

Sd/-
Gautam Chourdiya
Judge

Akhilesh